

## Department of Justice

## § 42.702

(4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and

(5) Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

For purposes of this regulation, the term *Federal financial assistance* also includes funds disbursed under the revenue sharing act.

(f) *Joint complaint* means a complaint of employment discrimination covered by title VII or the Equal Pay Act and by title VI, title IX, or the revenue sharing act.

(g) *Recipient* means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under such program.

(h) *Revenue sharing act* refers to the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. 1221 *et seq.*

(i) *Title VI* refers to title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d-4. Where appropriate, *title VI* also refers to the civil rights provisions of other Federal statutes or regulations to the extent that they prohibit employment discrimination on the ground or race, color, religion, sex or national origin in programs receiving Federal financial assistance of the type subject to title VI itself.

(j) *Title VII* refers to title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et seq.*

(k) *Title IX* refers to title IX of the Education Amendments of 1972, 20 U.S.C. 1681 to 1683.

### Subpart I—Nondiscrimination on the Basis of Age in Federally Assisted Programs or Activities; Implementation of the Age Discrimination Act of 1975

AUTHORITY: 42 U.S.C. 6103(a)(4); 45 CFR part 90.

SOURCE: Order No. 1843-94, 59 FR 6560, Feb. 11, 1994, unless otherwise noted.

#### GENERAL PROVISIONS

#### § 42.700 Purpose.

(a) This subpart implements the Age Discrimination Act of 1975, as amended (42 U.S.C. 5101-6107) (Act). Subject to certain exceptions, the Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

(b) The Secretary of Health and Human Services has issued a general regulation (45 CFR part 90) to guide other federal agencies regarding implementation of the Act. This subpart is generally based upon that general regulation.

#### § 42.701 Application.

(a) This subpart applies to each program or activity that receives federal financial assistance from the Department of Justice.

(b) This subpart does not apply to employment practices, except to those occurring in programs or activities that receive federal financial assistance under the Job Training Partnership Act.

#### § 42.702 Definitions.

As used in this subpart, the term:

*Act* means the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101-6107.

*Action* means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

*Age distinction* means any action using age or an age-related term.

*Age-related term* means a term that necessarily implies a particular age or range of ages (e.g., "youth," "juvenile,"

“adult,” “older persons,” but not “student”).

*Department* means the Department of Justice.

*Federal financial assistance* means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Department provides assistance in the form of:

- (1) Funds;
- (2) Services of federal personnel; or
- (3) Real or personal property or any interest in or use of such property, including—
  - (i) Transfers or leases of property for less than fair market value or for reduced consideration; and
  - (ii) Proceeds from a subsequent transfer or lease of property if the federal share of its fair market value is not returned to the federal government.

*FMCS* means the Federal Mediation and Conciliation Service.

*OJP* means the Office of Justice Programs. OJP coordinates the work of the Bureau of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention; OJP includes the Office for Victims of Crime.

*Program or activity* means all of the operations of any entity described in paragraphs (1) through (4) of this definition, any part of which is extended Federal financial assistance:

- (1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or
- (ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;
- (2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or
- (ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3) of this definition.

*Recipient* means any state or political subdivision, any instrumentality of a State or political subdivision, any public or private agency, institution, organization, or other entity, or any person to which federal financial assistance is extended, directly or through another recipient. “Recipient” includes any successor, assignee, or transferee, but does not include the ultimate beneficiary of the assistance.

*Secretary* means the Secretary of Health and Human Services or his or her designee.

*United States* means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

[Order No. 1843–94, 59 FR 6560, Feb. 11, 1994, as amended by Order 2679–2003, 68 FR 51366, Aug. 26, 2003]

§§ 42.703–42.709 [Reserved]

STANDARDS FOR DETERMINING AGE DISCRIMINATION

§ 42.710 General prohibition.

(a) Subject to the exceptions discussed in §§ 42.711–42.713, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program or activity to which this subpart